ORDINANCE NO. 13-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 18 (GRADING, CONTROL) **EROSION** AND SEDIMENT OF TEMECULA MUNICIPAL CODE IN ITS ENTIRETY TO ADD NEW TITLE 18 **ENTITLED** "CONSTRUCTION. **ENCROACHMENT**" **GRADING** AND **MAKE** TO CONSISTENT WITH THE 2010 CALIFORNIA BUILDING CODE **MINOR** AND TO MAKE OTHER RE-**ORGANIZATIONAL REVISIONS**

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. On May 11, 2004, City Ordinance No. 04-04, pertaining to grading, erosion and sediment control, was adopted. This Ordinance amended the Temecula Municipal Code by adding Title 18 entitled "Grading, Erosion and Sediment Control" and authorizing the Director of Public Works/City Engineer to prepare a grading manual setting forth the administrative procedures and technical requirements necessary to implement the Ordinance.

Section 2. On August 26, 2008, City Ordinance No. 08-09, pertaining to grading, erosion and sediment control, was adopted. This Ordinance amended portions of Title 18 of the Temecula Municipal Code for grading, erosion and sediment control to provide consistency with the adoption of the 2007 Edition of the California Building Code (including Appendix J) and to make other minor clarifications and corrections.

Section 3. It is now desirable to further amend Title 18 in its entirety. The purpose of this amendment is to re-organize and modify its form for simplification, to provide construction, grading (including borrow sites/stockpiling, land clearing, erosion and sediment control, etc.) and encroachment requirements for both onsite (private) development and public rights-of-way improvements, to make it consistent with the 2010 Edition of the California Building Code (including Appendix J) and to make other minor clarifications and corrections.

Section 4. Title 18 entitled "Grading, Erosion and Sediment Control" of the Temecula Municipal Code is hereby amended in its entirety and replaced with an improved, re-organized Title 18 entitled "Construction, Grading and Encroachment" to read as follows:

CITY OF TEMECULA

TITLE 18 CONSTRUCTION, GRADING AND ENCROACHMENT ORDINANCE

Chapter 18.01 GENERAL PROVISIONS

Sections:

18.01.020 Title

18.01.040 Engineering and Construction Manual

18.01.060 Purpose 18.01.080 Scope

18.01.020 Title

The ordinance codified in these chapters shall be known as the "City of Temecula Construction, Grading and Encroachment Title" and will be referred to herein as "this title."

18.01.040 Engineering and Construction Manual

The City Engineer shall formulate a manual setting forth the administrative procedures and technical requirements necessary to implement the provisions of this title. Such rules, procedures and requirements shall be entitled "The City of Temecula Engineering and Construction Manual for Administrative and Technical Procedures for Construction, Grading and Encroachment" ("Engineering and Construction Manual"). The City Engineer shall have the authority to change, update or revise the Engineering and Construction Manual, as necessary, in order to implement the provisions of this title and all revisions, thereto, arising from time to time.

In the event of any conflict between the Engineering and Construction Manual and this title, the more restrictive provisions shall govern. The provisions of the Engineering and Construction Manual shall, to the extent they are made conditions of a permit by the City Engineer, be binding upon the permittee and those claiming under said permittee.

18.01.060 Purpose

This title is enacted for the purpose of regulating construction, grading and encroachment activity in both onsite (private) development and public rights-of-way within the city limits of the City to safeguard life, limb, health, property and public welfare; to avoid discharges of pollutants such as sediment, hazardous materials, wastes and debris from entering public or private storm water conveyance facilities and surface waters; to ensure that the intended use of a construction site or a graded site within the city limits is consistent with the City's General Plan, any specific plans adopted thereto and all applicable City ordinances and zoning regulations; and to ensure that all construction or non-construction related activities encroaching into public rights-of-way

are conducted per all applicable City standards and ordinances, engineering standards and this title.

18.01.080 Scope

This title sets forth rules and regulations, which reflect the minimum acceptable methods or actions to control land disturbances, landfill, soil storage, pollution, erosion and sedimentation resulting from construction, grading (including land clearing activities, excavation, etc.) and encroachment activities. This title establishes procedures for application, issuance, administration and enforcement of permits for such activities. Any such construction, grading and encroachment activities within limits of the City shall conform to the provisions of this title and the Engineering and Construction Manual and other applicable provisions of this code and the California Building Code, as adopted and amended by the City, together with all other conditions of approval.

In the event that a particular topic is not covered in either this title or the Engineering and Construction Manual, the applicable provisions of this code or the California Building Code, as adopted and amended by the City, shall govern. If a conflict arises between this code or the California Building Code, the more restrictive provision shall govern, unless otherwise approved by the City Engineer.

Chapter 18.03 DEFINITIONS OF TERMS & ABBREVIATIONS

Sections:

18.03.020 Definitions of Terms

18.03.040 Abbreviations

18.03.020 Definitions of Terms

Whenever, in this title and the Engineering and Construction Manual, or in any resolution or standard adopted by city council pursuant to this title, the following terms are used, they shall have the meaning ascribed to them in this section, unless it is apparent that some other meaning is intended:

"Accessibility" is the combination of various elements in a building, facility, site or area, or portion thereof which allows access, circulation and the full use of the building and facilities by persons with disabilities in conformance with the Chapter 11B of the California Building Code.

"Accessible Route of Travel" means the continuous unobstructed path connecting all accessible elements and spaces in an accessible building or facility that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by persons with other disabilities, and that also is consistent with the definition of "Path of Travel" in this section. Interior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, sidewalks, ramps and lifts. An accessible route does not include stairs, steps or escalators.

- "<u>Administrative Clearing Permit</u>" means a type of grading permit that authorizes the clearing, brushing or grubbing of a portion of land beyond that scope exempted from the permit process by this title.
- "<u>Applicant</u>" means any person, corporation, partnership association of any type, public agency or any other legal entity, who submits an application for a permit pursuant to this title.
- "Approval" means that the proposed work or completed work conforms to the requirements of this title, in the opinion of the City Engineer.
- "<u>As-Graded</u>" means the site configuration upon completion of grading. This includes all horizontal and vertical dimensions and relationships and all physical features installed, reconstructed, eliminated or altered by the grading operations, as shown on the record drawings prepared by the engineer of work.
- "ASTM Standards" means the American Society for Testing Materials, which develops standardized test methods, specifications, practices, guides, classifications and terminology in such subject areas as metals, paints, construction, consumer products and many others.
- "Base" means a layer of specified material of planned thickness placed immediately below the pavement or surfacing.
- "Bedrock" means in-place solid rock.
- "Bench" means a relatively level step excavated into soil materials on which fill is to be placed.
- "<u>Best Management Practices (BMP's)</u>" means the management practices, operating procedures and devices implemented to prevent or reduce the discharge of pollutants, directly or indirectly, to public or private storm water conveyance systems.
- "Borrow" means soil material acquired from an off-site location for use in grading on a site.
- "Buttress Fill" means an engineered fill designed to stabilize an adverse geologic condition (landslide, adverse bedding, etc.).
- "Certify" or "Certification" means a signed written statement that the specific inspections and/or tests required to be performed on real property have been performed and that the works comply with the applicable requirements of this chapter, the plans and the permit.
- "City Engineer" means the City Engineer of the City of Temecula or his or her duly delegated representative.
- "<u>Civil Engineer</u>" means a professional engineer registered in the State of California to practice in the field of civil engineering.
- "Clearing, Brushing and Grubbing" means the removal or disturbance of vegetation (grass, brush, trees and similar plant types), weed abatement, manmade structures, environmentally sensitive species and habitats, rocks, archaeological artifacts and sites, or other environmentally sensitive features by any means for purposes of development or compliance with laws, rules or regulations. For purposes of this chapter, references to "clearing" shall mean clearing, brushing and grubbing individually and separately.

- "Compaction" means the densification of a fill by mechanical or other acceptable means.
- "Construction Site" means any project requiring a local grading, haul route, encroachment or building permit, including projects requiring coverage under the General Construction Permit.
- "Contour Grading" means grading that creates or results in land surfaces that reflect the pre-graded natural terrain or that simulate natural terrain (i.e., rounded, non-planer surfaces and rounded, non-angular intersections between surfaces).
- "Crib Wall" means a crib type wall as described in the most recent publication of "Standard Plans," Department of Transportation, State of California.
- "Cross-Lot Drainage" means any drainage course created through grading or excavation that crosses on to another lot, either within or outside the subdivision or construction site.
- "Curb Ramp" means a sloping pedestrian way, intended for pedestrian traffic, which provides access between a walk or sidewalk to a surface located above or below an adjacent curb face.
- "Cut" see definition for "Excavation."
- "Dry Season" means May 1st through September 30th of each year.
- "Engineer of Record" means the professional engineer (holding a current registration in the state of California), who supervised the design and signed the construction/grading plan accepted by the City Engineer.
- "<u>Erosion</u>" means the wearing away of the ground surface as a result of the movement of wind, water or ice.
- "Erosion and Sediment Control (ESC) Plan" is a plan prepared under the direction of and signed by a civil engineer competent in the preparation of such plans and knowledgeable about current erosion and sediment control methods. Said plan shall be submitted to the City and shall provide for protection of exposed soils and desiltation of runoff at frequent intervals prior to discharging from a site or to storm water conveyance systems (natural watercourses, streets, flow-lines, inlets, outlets, etc.).
- "Erosion and Sediment Control (ESC) System" means combination of erosion and sediment controls (including effective planting and the maintenance thereof) to protect the project site, adjacent private property, watercourses, public facilities, graded improvements, existing natural features, archaeological artifacts and to relieve waters of suspended sediments or debris prior to discharge from the site.
- "Erosion Control" means anything that keeps soil in place.
- "Excavation" or "Cut" means an act by which soil, sand, gravel or rock is cut into, dug, quarried, uncovered, removed or relocated, and shall include the conditions resulting there from.
- "Expansive Soils" means any soil with an expansion index greater than 20, as determined by the Expansive Index Tests of the California Building Code.

- "Fault" means a fracture in the earth's crust along which movement has occurred. A fault, as defined by the California Division of Mines and Geology, is considered active if the movement has occurred within the last 11,000 years (Holocene geologic time).
- "Fill" means a deposit of soil, sand, gravel, rock or other material placed by artificial means.
- "Flow-line" means v-ditches, brow-ditches, terrace drains, ribbon gutters, curb gutters, etc.
- "<u>Fugitive Dust</u>" means the particulate matter entrained in the ambient air as a result of man-made fugitive dust sources, as determined by South Coast Air Quality Management District (SCAQMD) Rule 403.
- "General Construction Permit (GCP)" means the permit issued by the SWRCB to regulate discharges from construction activity.
- "Geohydrology" means all groundwater information, water-well usage rate requirement, seepage elevations, pollution evaluations, projected usage rate considerations, evaluations of impact on existing and future users, and long term projections appropriate to site development.
- "Geologic Hazard" means any geologic feature capable of producing structural damage or physical injury. Geologic hazards include:
 - A. Landslides and potential slope instabilities resulting from bedding faults, weak clay stone beds and over steepened slopes.
 - B. Deposits potentially subject to liquefaction, seismically induced settlement, severe ground shaking, surface rupture, debris flows or rock falls resulting from fault activity.
 - C. Deposits subject to seepage conditions or high-ground water table.
- "Geotechnical Engineering Report" means a geotechnical report prepared under the responsible supervision of a geotechnical engineer and approved by the City Engineer, which includes:
 - A. Preliminary information concerning engineering properties of soil and rock on a site (prior to grading), present, historical, and future groundwater levels, analysis for both gross and surficial slope stability, fill settlement, liquefaction potential, alluvium deposits, describing locations of these materials and providing recommendations for preparation of the site for its intended use.
 - B. A grading report, which includes information on site preparation, compaction of fills placed, and provides recommendations for structural design and approval of the site for its intended use.
- "Grade" means the vertical elevation of the ground surface. Grade may refer to the following:
 - A. "Existing grade" means the grade prior to grading.
 - B. "Finish grade" means the final grade of the site, which conforms precisely to the City-approved plans, approved construction changes or record drawings.
 - C. "Natural grade/ground" means the ground surface unaltered by artificial means.

- D. "Rough grade" means the stage at which the work is in to precise conformance with the approved plan and when all excavations for drainage structures and retaining walls are complete.
- "Grading" means any process of excavation or filling or combination thereof.
- "Greenbook Standards" means the most recent publication of the Standard Specifications for Public Works Construction, which provides specifications that have general applicability to public works projects.
- "<u>Hillside Site</u>" means a site where the existing grade is 20% or greater and which may be adversely affected by drainage and/or stability conditions within or from outside the site, or which may cause an adverse effect on adjacent property.
- "Key" means a compacted fill placed in a trench excavated in earth material beneath the toe of a slope.
- "Keyway" means an excavated trench into competent earth material beneath the toe of the proposed fill slope.
- "Landslide" means a perceptible down slope movement of rock, soil or artificial fill ranging in speed from moderately slow (slump) to very rapid (avalanche).
- "Mass Grading Permit" means a grading permit that is issued on the basis of approved plans that show, on a larger scale, an area to be graded; this grading (prior to rough grading) shall be shown within two feet (vertical) of the site's final elevations.
- "Maximum Extent Practicable (MEP)" means the standard established by Congress in the Clean Waters Act that operators of MS4 permits must meet. To achieve the MEP standard, Best Management Practices must be implemented that are technically feasible (are likely to be effective) in combination with treatment methods serving as a backup.
- "Mined Lands" include the surface, subsurface and groundwaters of an area in which surface mining operations will be, are being, or have been conducted. This includes private ways and roads appurtenant to any such area, land excavations, mining waste and areas in which structures, facilities, equipment, machines, tools, or other related materials or property are located.
- "Municipal Separate Storm Sewer System (MS4) Permit" means the certification/regulation requirements that the City must meet to allow storm water discharges into the Waters of the State.
- "Natural Terrain" means the lay of the land, prior to any grading or other artificial landform modification.
- "National Pollutant Discharge Elimination System (NPDES)" means the permitting and program requirements established by the Federal Clean Water Act and administered by the Environmental Protection Agency to regulate the discharge of pollutants to waters of the United States.
- "<u>Owner</u>" means a person, who owns a site upon which is located grading, clearing, mining, quarrying and/or commercial extraction operations that are being conducted or may be conducted.

- "Path of Travel" means a passage that may consist of walks and sidewalks, curb ramps and pedestrian ramps, lobbies and corridors, elevators, other improved areas or a necessary combination thereof, that provides free and unobstructed access to and egress from a particular area or location for pedestrians and/or wheelchair users. A "path of travel" includes a continuous, unobstructed way of pedestrian passage by means of exited, and which connects a particular area with an exterior approach (including sidewalks, streets and parking areas), an entrance to the facility and other parts of the facility. In existing buildings, when alterations, structural repairs or additions are made, the term "path of travel" also includes the sanitary facilities, telephones, drinking fountains and signs serving the altered area.
- "<u>Permit</u>" means the authorization issued pursuant to this title, together with the application for the same, the conditions upon which it was issued, and any plans, specifications, reports, and approved modifications thereto.
- "Permittee" means any person, property owner, contractor or authorized agent to whom a permit is issued pursuant to this title.
- "Person" means any individual, firm, association, corporation, organization, partnership or any city, county, district, the State or any department or agency thereof. (14 Cal. Code of Regulations, Sec. 3501)
- "Pollutant" means any agent that may cause or contribute to the degradation of water quality. The term may include, but is not limited to, dredged spoil, rock, sand, silt, solid and liquid waste, oil, fuels, construction related materials, debris and other contaminates.
- "Precise Conformance", for purposes of this title, means:
 - A. Pad elevations within plus or minus four-tenths (0.4) of a foot of planned elevation or approved construction change;
 - B. Street subgrade within plus or minus four hundredths (0.04) of a foot of planned elevation or approved construction change;
 - C. Slope grades within plus or minus one-half foot (0.5') of planned elevation or approved construction change;
 - D. Rock slopes (rip-rap armoring) and horizontal locations within two feet of planned elevation and location or approved construction change;
 - E. Drainage gradient to within two-tenths (0.2) of one percent of planned slope or approved construction change;
 - F. Structures within the tolerances specified in the latest adopted version of the "Standard Specifications for Public Works Construction" (GreenBook).
- "Precise Grading Permit" means a grading permit that is issued on the basis of approved plans that show the precise locations of structures, finished elevations, drainage details and all on-site improvements on a given property.
- "Priority Development Projects" means new development and redevelopment projects, as indicated in the City's MS4 permit requirements.

- "Private Roads" means roads that have been dedicated to the public, but not accepted for public use or that have been retained as "private" for private use by the owners or may simply be a road created by private use or easement.
- "Quarrying" means the process of removing or extracting stone, rock or similar materials from an open excavation for financial gain.
- "Rainy Season" means October 1st through April 30th of the next calendar year.
- "Record Drawings/As-Builts" means plans prepared by the engineer of work subsequent to the completion of all work on the approved plans and approved changes, thereon depicting the as-graded condition.
- "Regional Water Quality Control Board" (RWQCB) means the State's regional regulatory agency responsible for protecting waters of the State. There are nine regional boards throughout the state.
- "Retaining Wall" means a wall designed to resist the lateral displacement of soil or other materials.
- "Rough Grading Permit" means a grading permit that is issued on the basis of approved plans that show finished elevations, interim building pad elevations and drainage.
- "Sediment Control" means anything that captures soil particles after being displaced.
- "Site" means the real property on which activities subject to this title may occur.
- "Slope" means an inclined ground surface of fill, excavation or natural terrain, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
- "Slope Revegetation" means the planting of graded slopes with native and/or naturalizing plant species, which, after an initial establishment period, usually requiring irrigation, will survive with normal precipitation.
- "Slope Stability" shall be defined as follows:
 - A. "Gross stability" means the factor of safety against failure of slope material located below a surface approximately three to four feet deep, measured from and perpendicular to the slope face.
 - B. "Surficial stability" means the factor of safety against failure of the outer three to four feet of slope material measured from and perpendicular to the slope face.
- "Soil" means any rock, natural soil or fill, and/or any combination thereof.
- "South Coast Air Quality Management District" (SCAQMD) means the regulatory authority for all or portions of Los Angeles, Orange, San Bernardino and Riverside Counties that oversees air pollution emissions from stationary sources, including fugitive dust sources generated by construction activity.
- "<u>State Water Resources Control Board</u>" (<u>SWRCB</u>) means the regulatory authority that develops statewide water protection policies, establishes water quality standards and guides the nine Regional Water Quality Control Boards throughout the state.
- "Stockpile" means a temporary uncompacted fill or embankment placed by artificial means, which is designated or intended to be moved, or relocated at a later date.

- "Stop Work Order" means an order issued by a City official, who requires that specific activity or all activity on a work site be stopped.
- "Storm Water" means surface runoff and drainage associated with storm events.
- "<u>Storm Water Conveyance System</u>" means any natural watercourses, curbs, gutters, streets, flow-lines, inlets, outlets, etc., either public or private, leading to waters of the State.
- "Storm Water Pollution Prevention Plan" (SWPPP) means a document, which meets the requirements set in the State's NPDES General permits for Construction and Industrial activities. The SWPPP must describe the BMP's to be implemented to meet the requirements of the General Permits and this title.
- "Sub-base" means a layer of specified material of planned thickness between a base and the subgrade.
- "<u>Sub-grade</u>" means the soil prepared to support structures, or that portion of the roadbed on which pavement, surfacing, base or sub-base, or layer of other material is placed.
- "<u>Terrace</u>" means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.
- "<u>Topsoil</u>" means soil, which is within the uppermost horizon of a soil profile, and which contains organic matter, nutrients and microorganisms necessary for plant growth.
- "<u>Ultimate Right-of-Way</u>" means the right-of-way shown, as ultimate, on an adopted precise plan of highway alignment, or a street right-of-way shown within the boundary of a recorded tract map, or a recorded parcel map. The latest adopted or recorded document in the above cases shall take precedence. If none of these exist, the Ultimate Right-of-Way shall be considered to be the right-of-way required by the highway classification as shown on the Master Plan of Arterial Highways. In all other instances, the Ultimate Right-of-Way shall be considered to be the existing right-of-way.
- "Water Quality Management Plan (WQMP)" means a plan submitted in connection with an application for a City permit or other City approval, identifying the measures that will be used to mitigate the impacts of urban runoff from development projects.
- "<u>Watercourse</u>" means a permanent or intermittent stream or other body of water, either natural or improved, which gathers or carries surface water.
- "<u>Watershed</u>" means the geographical area, which drains to a specified point on a water course; usually, a confluence of streams or rivers (also known as a drainage area, catchment or river basin).
- "<u>Waters of the State</u>" means any water (surface or underground) under the jurisdiction of the State.

18.03.040 Abbreviations

Act	Alquist-Prio	lo Earthquake F	ault ∠onın	g Act	
BMP	Best Manag	gement Practices	3	•	
Cal OSHA	California	Occupational	Safety	&	Health
Administration					

Construction General Permit
Erosion and Sediment Control
Maximum Extent Practicable
Municipal Separate Storm Sewer System Permit
National Pollutant Discharge Elimination System
Qualified Stormwater Developer/Practitioner
Regional Water Quality Control Board
South Coast Air Quality Management District
Storm Water Pollution Prevention Plan
State Water Resource Control Board
Water Discharge Identification
Water Quality Management Plan

Chapter 18.06

GRADING PERMIT, APPLICATION & REQUIREMENTS

Sections:

J.	
18.06.020	Grading Permits Required
18.06.040	Types of Work Covered by a Grading Permit
18.06.060	Permit Exemptions
18.06.080	Tentative Subdivision or Conditional Use Permit Required
18.06.100	Grading Application
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18.06.200	Transfer of Responsibility
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18.06.360	Right of Entry
18.06.380	Time of Operations
18.06.400	Responsibility of Permittee
18.06.420	Contractor Qualifications
18.06.440	Protection of Adjoining Property
18.06.460	Protection of Utilities
18.06.480	Maintenance of Protective Devices
18.06.500	Debris on Public and Private Streets

18.06.020 Grading Permits Required

No person shall conduct any construction, grading (stockpiling, excavating, earth moving, filling, clearing, disking, brushing or grubbing on natural or existing grade or

perform work that is preparatory to grading), without first having obtained a grading permit in accordance with this title, except as specified in Section 18.06.060 "Permit Exemptions" of this title and without having obtained coverage under the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) permit for construction activity, if applicable.

18.06.040 Types of Work Covered by a Grading Permit

- A. The types of work covered by a grading permit include the following:
 - 1. Mass, Rough or Precise Grading. The City Engineer may issue a grading permit for mass, rough or precise grading work upon completion of an application in accordance with the Engineering and Construction Manual. The issuance of building permits by the Department of Building & Safety shall be determined as follows:
 - a. Building permits may be issued for a site graded under a grading permit for precise grading work, upon completion and approval of the rough grade inspection, as specified in and subject to the requirements of the Engineering and Construction Manual.
 - b. Building permits shall not be issued for a site graded under a grading permit for rough grading work, unless a precise grading plan has been approved.
 - 2. Borrow Sites. A grading permit shall not be issued when, in the opinion of the City Engineer, a significant amount of borrow or waste material is to be removed from a grading site for commercial purposes, unless a Conditional Use Permit in accordance with Chapter 17.04, "Permits" of the Temecula Municipal Code has been issued for the operation of a borrow pit on the grading site.
 - 3. Stockpiling. Upon approval by the Planning Commission, a grading (stockpile) permit may be issued for the stockpile of soil materials on a lot or parcel provided that the soil materials shall be removed from the site or compacted and graded thereon under a subsequently issued mass, rough or precise grading permit within six months of issuance of a stockpile permit, unless modified by the Planning Commission in accordance with the Engineering and Construction Manual.
 - 4. Erosion and Sediment Control (ESC). All grading plans, regardless of the date of submittal, shall include an erosion and sediment control plan designed to limit erosion and sediment discharges of all disturbed portions of the property and to minimize the transport of soil onto adjacent properties or into storm water conveyance systems in accordance with the provisions of Chapter 18.18 of this title and the Engineering and Construction Manual. The ESC work shall be covered under the grading permit.
 - 5. <u>Administrative Clearing</u>. No person shall commence any clearing and grubbing operation without first obtaining a grading (administrative clearing) permit in accordance with the Engineering and Construction Manual.
 - 6. Rock Blasting. No rock blasting shall be permitted until a pre-blast survey of the surrounding property is conducted to the satisfaction of the City Engineer.

- During rock blasting, seismic recordings shall be taken for all blasts at locations and levels approved by the City Engineer. All blasting shall conform to the requirements of the City Engineer, as specified in and subject to the requirements of the Engineering and Construction Manual.
- 7. Paving. For onsite (private) development, no person shall construct concrete or bituminous pavement surfacing on natural or existing grade in excess of 5,000 square feet for any commercial, industrial, multi-residential or other parking lot, without a valid grading permit for such paving operation. This excludes developments consisting of a single family residence. Maintenance and repaving of existing paved sections shall be exempt from this requirement.
- 8. <u>Watercourse Alteration</u>. No person shall alter an existing watercourse, channel or revetment (by excavating or placing fill, rock protection or structural improvements therein) without an applicable state agency approval and a grading permit unless:
 - a. The requirement for a grading permit is waived by the City Engineer,
 - b. The grading is performed as interim protection in an emergency to prevent flooding or
 - c. A separate improvement plan for such alteration is approved by applicable state agencies and the City Engineer.

18.06.060 Permit Exemptions

Grading permits are <u>not</u> required for:

- A. An excavation below the existing finished grade for re-compaction within the building zone (within five feet of footings) or for basements and footings for a building, mobile home, retaining wall, septic system, well or structure authorized by a building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than two feet after the completion of such structure. Regardless of exemption, the Public Works Department shall be notified of activity.
- B. Cemetery graves;
- Refuse disposal sites controlled by other statutorily authorized regulations or agencies;
- D. Earthwork or construction controlled by the federal, state, county or city governments, or by a local agency as defined by Government Code Section 53090 through 53095 (special districts). This exemption, however, shall apply only when the grading activity takes place on the property, or dedicated rights-of-way or easements of the above agencies;
- Excavation and backfill for installation of underground utilities by public utilities or companies operating under the authority of a franchise or public rights-of-way permit;
- F. Mining, quarrying, excavating, processing stockpiling of rock, sand, gravel, aggregate or clay for commercial purposes where established and provided for by a conditional use permit, provided such operations do not affect the lateral support

- of any adjacent or adjoining properties, or alter the direction of, or contribute to, sedimentation to natural watercourses.
- G. Exploratory excavations under the direction of civil engineers, geotechnical engineers, engineering geologists, and/or archaeologists or paleontologists, or pursuant to a well permit, provided all excavations are properly backfilled or otherwise restored. All such elevations and trenches are subject to the applicable sections of Title 8 of the State Orders, Division of Industrial Safety and the following:
 - 1. When such work involves removal of any native vegetation, it shall be accompanied by an administrative clearing permit in accordance with Section 18.06.040 "Types of Work Covered by a Grading Permit" of this title. Any access roadways or pads constructed for this work shall only be constructed as approved in the administrative clearing permit and shall be restored as required in the permit.
- H. An excavation not intended to support structures or mobile homes and which: (a) is less than two feet in vertical depth or (b) does not create a cut slope greater than three feet in vertical height and steeper than two horizontal to one vertical (2:1). This exemption shall not apply when finish grading is proposed, subsequent to a permit authorizing rough grading in accordance with Section 18.06.040, "Types of Work Covered by a Grading Permit" of this title.
- I. A fill less than one foot in vertical depth, placed on natural terrain with a slope flatter than five horizontal to one vertical (5:1), or less than three feet in depth, not intended to support structures or mobile homes, which does not exceed 50 cubic yards on any site and does not obstruct a drainage course. This exemption shall not apply when finish grading is proposed, subsequent to a permit authorizing rough grading in accordance with Section 18.06.040, "Types of Work Covered by a Grading Permit" of this title.
- J. The construction or maintenance of roads or facilities for the generation, storage or transmissions of water including floodwaters or electrical energy by public agencies or their agents. Work may be subject to Water Quality Management Plan (WQMP) requirements. A WQMP project includes the construction or reconstruction of 5,000 square feet of impervious surface in a parking lot, street, road or highway.
- K. The maintenance of private roads by private individuals or their agents, but not the construction or widening of such roads.
- L. Clearing and brushing when directed by the Fire Chief to mitigate a potential fire hazard in accordance with Title 8, Chapter 8.16, "Hazardous Vegetation," of the Temecula Municipal Code with the concurrence of the Director of Development Services that such clearing and brushing will not cause significant damage to any habitat of any rare, endangered or protected species of wildlife or endanger any archaeological or historical resources, open space areas with biological significance, or transition areas between land to be cleared for fire fuel mitigation and permanent open space.

- M. Clearing and brushing, expressly for the following purposes:
 - 1. Routine landscaping and maintenance of already landscaped areas and the removal of dead or diseased trees or shrubs.
 - 2. Clearing, which conforms to the location, extent and purpose authorized explicitly by a construction permit pursuant to a discretionary land use permit or a discretionary development permit. An administrative clearing (grading) permit, in accordance with Section 18.06.040 "Types of Work Covered by a Grading Permit" of this title, shall be required for any purpose that is not specifically addressed by the construction permit.
- N. Repaving, resurfacing and maintenance of existing private roads and parking lots and the preparation necessary for that work, provided no grading beyond the limits of other exemptions is performed.
- O. Minor maintenance and alterations to natural drainage areas that do not:
 - 1. Obstruct or redirect drainage from adjacent properties, nor
 - 2. Divert the outflow of drainage from the existing or natural discharge point of the property, nor
 - 3. Concentrate or accelerate the flow of drainage as it leaves the property, nor
 - 4. Create ponding, siltation or erosion in or of the streambed, nor
 - 5. Disturb wetlands

Note: The above listed exemptions do not apply to clearing, grubbing, brushing, disking or grading when:

- 1. Work will occur in, or physically impact, designated or dedicated open space or environmentally sensitive areas designated in the General Plan, or the finally adopted plan of any public agency or governmental office with jurisdiction over the site, or shown on any approved Specific Plan; or
- 2. Work will occur in any waterway or wetland, stream, river, channel, pond, lake, marsh, bog, lagoon, vernal pool or riparian habitat, except as provided in exemption "O;" or
- 3. Work will occur in any floodway or floodplain as shown on the Federal Emergency Management Agency Flood Plain Maps or on City revised maps, except as provided in exemption "O."

18.06.080 Tentative Subdivision or Conditional Use Permit Required

Under either of the following circumstances, a grading permit shall not be issued, unless and until, a tentative map or a conditional use permit has been approved by the City:

- A. If the purpose of the proposed grading or clearing is to prepare the land for a subdivision or for some use for which a conditional use permit is required; or
- B. Notwithstanding the purpose of the proposed grading or clearing as stated in the application, if the City Engineer finds that the purpose of the proposed grading or clearing is to prepare the land for subdivision or for some use for which a conditional use permit is required.

18.06.100 Grading Application

To obtain a grading permit, the applicant shall first file an application in writing on a form furnished by the City Engineer for that purpose.

18.06.120 Plans and Specifications

- A. Each application for a grading permit shall be accompanied by plans and specifications, soils engineering and geotechnical reports, hydrology/hydraulic reports, erosion and sediment control plans, proof of coverage under the State General Permit for construction activities and all other information required by the City Engineer as noted in the Engineering and Construction Manual, and payment of the appropriate fees. In addition, a conceptual Water Quality Management Plan (WQMP) must be accepted by the City Engineer prior to issuance of final conditions of approval. A final WQMP must be accepted by the City Engineer, prior to issuance of a grading permit.
- B. Plans and specifications for grading projects requiring permits as defined in Section 18.06.020 "Grading Permits Required" of this title shall be prepared and signed by the engineer of record. This requirement may be extended to any project when, in the opinion of the City Engineer, drainage or geologic factors may warrant a need for civil engineering design and control.
- C. Grading plans and specifications shall be prepared in accordance with the Engineering and Construction Manual.

18.06.140 Expiration and Renewal of Grading Application Submittals

- A. Applications for which no permit is issued within 180 days following the date of application shall expire; and plans submitted for checking may thereafter be returned to the applicant or may be destroyed by the City Engineer without additional notice to the applicant.
- B. The City Engineer may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the reasonable control of the applicant have prevented action from being taken.
- C. In order to renew action for an application after expiration, the applicant shall resubmit the grading submittal package and pay the most current plan check fee.
- D. Plan check fees shall be deemed forfeited for all expired permits.

18.06.160 Expiration and Renewal of Issued Grading Permits

- A. A grading permit shall be valid for a period of 180 days from the date of issuance.
- B. The time limitation for all grading permits is also subject to the following provisions:
 - 1. <u>Change of Ownership</u>. A grading permit issued in accordance with these requirements shall terminate upon a change of ownership if the work for which said permit was issued has not been completed. In such instances, a new grading permit shall be required for the completion of the work.

- a. If the time limitations of paragraph (A) of this section are not applicable, and no changes have been made to the plans and specifications last submitted to the City Engineer, no charge shall be made for the issuance of a new permit.
- b. If changes have been made to the plans and specifications last submitted to the City Engineer, fees based on the valuation of the additional or new work, such as additional earthwork and necessary plan checking, shall be charged to the permit applicant.
- c. New securities and/or deposits shall be submitted by the new owner in accordance with Section 18.24.140 "Securities" of this title.
- 2. <u>Permit Extensions</u>. The City Engineer may extend the time limit on grading permits by one or more successive periods of up to 180 days upon written request by the applicant showing to the satisfaction of the City Engineer that circumstances beyond the control of the applicant have prevented, delayed or extended the time required to complete the grading operations.
- 3. <u>Weather-Related Delays</u>. The City Engineer may require that grading operations and project designs be modified if delays occur which incur weather-related problems not considered at the time the grading permit was originally issued.
- C. As a condition of the extension of any time period, the City Engineer may require the payment of additional permit, plan checking, inspection and/or soils review fees required to cover the administration of the extensions and/or increased costs to the City and to bring the project into conformance with any fee schedule in effect at the time of extension.

18.06.180 Denial of Grading Permit

- A. A grading permit shall not be issued in any case where the City Engineer determines that hazardous conditions exist and that the work, as proposed by the applicant, will:
 - 1. Expose any property to landslide or geologic hazard;
 - 2. Adversely interfere with existing drainage courses or patterns;
 - 3. Cause erosion and/or flooding, which could result in the depositing of mud, silt or debris on any other property or public/private street;
 - 4. Create any hazard to person or property; or
 - 5. Damage or endanger any environmentally sensitive species and habitats, rocks and/or archaeological artifacts.
- B. A grading permit shall not be issued if any of the following apply:
 - 1. If the submittal is incomplete;
 - 2. If the plan as submitted does not comply with the provisions of this title;
 - 3. If the required security is not posted;
 - 4. If the application contains false information.

- C. The City Engineer shall deny the issuance of a grading permit if any of the following apply:
 - 1. If prohibited by a duly elected moratorium, court order, injunction or other legal order;
 - 2. If the applicant or owner has failed to comply with the provisions of this title, or
 - 3. If the work proposed is not consistent with the City's General Plan (or any element thereof), any specific plan, conditional use permit, land use ordinance or regulation, zoning ordinance or regulation, any permit or approved subdivision map.

18.06.200 Transfer of Responsibility

If the civil engineer of record, the geotechnical engineer, the engineering geologist or the grading contractor of record is changed during the course of the work, the project shall be stopped until:

- A. Permittee submits a letter of notification verifying the change of the responsible professional; and
- B. The new responsible professional submits in writing that he has reviewed all prior reports and/or plans (specified by date and title) and work performed by the responsible professional party, and that he concurs with the findings, conclusions and recommendations and is satisfied with the work performed. He must state that he assumes all responsibility within his purview as of a specified date. All exceptions shall be justified to the satisfaction of the City Engineer.

Exception: Where clearly indicated that the firm, not the individual engineer and/or geologist, is the contracting party, the designated engineer or geologist may be reassigned and another engineer and/or geologist within the firm may assume responsibility.

18.06.220 Clearances

- A. The applicant shall obtain all required clearances from applicable regulatory agencies and City Departments prior to obtaining a grading permit, as specified in and subject to the requirements of the Engineering and Construction Manual. Said clearances shall not be obtained until the applicant meets all regulatory agencies' and City Departments' requirements.
- B. The applicant shall address all requirements associated with drainage ways (where their function is essential to the protection and/or use of multiple properties). Said requirements shall comply with the Engineering and Construction Manual.

18.06.240 Water Quality Management Plan

A Water Quality Management Plan (WQMP) may be required as a condition for issuance of grading permits. A WQMP shall provide guidelines for addressing site design, source control and treatment control BMPs on a project-specific and/or sub-regional or regional basis to address the management of urban runoff to protect receiving waters. Said

report shall comply with the NPDES MS4 Permit and as specified in and subject to the requirements of the Engineering and Construction Manual.

18.06.260 Geotechnical (Soils) Reports

- A. The City Engineer shall require a geotechnical report to correlate surface and subsurface conditions with the proposed grading plan. The results of the investigation shall be presented in a report in conformance with the requirements of this title and the Engineering and Construction Manual.
- B. The City Engineer shall require such supplemental reports and data, as he deems necessary, upon his review of the site and the reports and other data submitted. Such required data may include tests for soil fertility and agricultural suitability to be performed at the conclusion of rough grading by a recognized agronomic soil-testing laboratory, with written analysis and recommendation, to be utilized during any required re-vegetation.
- C. For a specific project, the City Engineer may determine that the geological and geotechnical conditions at the site are such that public safety is adequately protected and no mitigation is required. This finding shall be based on a report presenting evaluations of site in the immediate vicinity having similar geologic and geotechnical characteristics. The report shall be prepared by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation. The City Engineer shall provide a written commentary that addresses the report conclusions as justification for waiving the requirement of a geotechnical report for the project. All such waivers shall be recorded with the county recorder and a separate copy, together with the report and commentary, shall be filed with the State Geologist within 30 days of the waiver, in accordance with Public Resources Code Section 2697(a).

18.06.280 Seismicity Reports - Alquist-Priolo Earthquake Fault Zoning Act (Act)

A seismicity report shall be required as a condition for issuance of grading permits for: all grading applications associated with subdivisions (tracts), if applicable; all grading projects that propose development with occupancy category II, III, IV structures as shown in Table 1604A.5 of the California Building Code; and all real estate development that lies within an earthquake fault zone. Said reports shall comply with the requirements of the Act (Public Resources Code Section 2621, et seq.) and as specified in and subject to the requirements of the Engineering and Construction Manual.

18.06.300 Dust Control and Prevention Plan

Dust control and prevention procedures shall be employed while construction activity occurs to minimize wind borne particles. At a minimum, all grading operations, land clearing, loading, stockpiling, landscaping, vehicular track-out and haul routes shall comply with South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust Emissions) and the Engineering and Construction Manual.

18.06.320 Disposal of Materials

The disposal of all waste and recycling materials removed as part of any grading project shall comply with the City's Solid Waste Franchise Agreement, as specified in and subject to the requirements in the provisions of the Temecula Municipal Code, Title 8, Chapter 8.20, "Waste Management," and the Engineering and Construction Manual.

18.06.340 Permit Issuance – Terms and Conditions

- A. Upon receipt and approval of the required application, fees, plans, reports and other requirements of this title, the City Engineer may issue a grading permit, subject to any terms and conditions deemed necessary to ensure conformance with the provisions of this title and the Engineering and Construction Manual.
- B. The City Engineer shall have the discretion to impose or modify conditions as necessary to prevent a possible nuisance or hazard, or to eliminate a nuisance or hazard, to persons or to public or private property in accordance with Section 18.27.060 "Hazardous Conditions" of this title.
- C. The issuance of a permit shall constitute an authorization to do only that work which is described or illustrated on the application for the permit, or on the plans and specifications attached to the permit and approved by the City Engineer. A separate permit shall be required for each (noncontiguous) grading project.

18.06.360 Right of Entry

As a prerequisite for issuance of any grading permit, the owner, contractor or authorized agent of the site to be graded acknowledges and grants permission to the City for right of entry into the site for inspection, emergency work or correction of grading not performed in compliance with the terms and conditions of the permit. The owner, contractor or authorized agent shall agree to indemnify the City for any claims or damages, which may result from the City's entry onto the property including any corrective or emergency action taken pursuant to such right of entry.

18.06.380 Time of Operations

- A. Time of any grading, clearing and equipment operations pursuant to this title shall be consistent with City Ordinance No. 94-25. Grading operations within one-quarter (1/4) mile of an occupied residence shall not be conducted between the hours of 6:30 p.m. and 6:30 a.m., Monday through Friday; or between the hours of 6:30 p.m. and 7:00 a.m. on Saturdays. Further, no such activity shall be undertaken on Sunday or any nationally recognized holiday. The City Engineer may extend the hours permitted for grading or equipment operations if the City Engineer determines that such operations are not detrimental to the health, safety or welfare of the inhabitants of nearby structures. Permitted hours of operation may be shortened by the City Engineer's findings of a previously unforeseen effect on the health, safety or welfare of the surrounding community.
- B. Public Works projects of any federal, state or local entity or emergency work by public utilities are exempt from the provisions of this title. Residents working on their property are exempt from the prohibition of construction activities on Sundays

and holidays, but shall comply with the hourly restrictions set forth for Saturday when working on Sundays and holidays.

18.06.400 Responsibility of Permittee

It shall be the responsibility of the permittee to be knowledgeable of the conditions and/or restrictions placed on the permit as outlined in the applicable sections of this title, the Engineering and Construction Manual, and as contained on the approved grading plans and geotechnical reports. The permittee shall also be responsible for maintaining a copy of the permit and approved plans at the work site, and implementing the applicable requirements of the City's Standard Notes, as identified in the Engineering and Construction Manual.

18.06.420 Contractor Qualifications

All persons performing work pursuant to this title shall have all valid licenses and insurance required by the State of California and by the City of Temecula.

18.06.440 Protection of Adjoining Property

Each adjacent owner is entitled to the lateral and subjacent support that his land receives from the adjoining land, subject to the right of the property owner of the adjoining land to make proper and usual excavations on the same for purposes of construction or improvement, as follows:

- A. Any person causing an excavation to be made to a depth of 10 feet or more below the grade and within 10 feet of the property line(s) shall protect the excavation so that the soil of adjoining property will not cave in or settle. The person making or causing the excavation to be made shall provide written notification to the adjoining property owner(s) no less than 10 days before such excavation is to be made, stating the depth for which such excavation is to be made and when the excavation will begin.
- B. If at any time it appears that the excavation is of greater depth than are the walls or foundation of an adjoining building or other structure, and the distance from the edge of the excavation to an adjoining building or other structure is less than the depth of the excavation, the person causing the excavation shall notify the owner of the adjoining building or other structure no less than 10 days before such excavation is to be made to protect the same from any damage, or to brace or extend the foundations of the noted building or other structure from possible damage from the excavation.
- C. Excavations shall meet all state and federal regulations including, but not limited to, any trench greater than five feet deep. Cal OSHA permits shall be obtained.
- D. No grading shall be approved which, in the opinion of the City Engineer, physically prevents the use of existing legal access to any parcel.

18.06.460 Protection of Utilities

- A. During grading operations, the permittee shall be responsible for the prevention of damage to public utilities or services and for confining grading activities to the area permitted on the approved plans. This responsibility applies within the limits of grading or clearing and along any routes of travel of equipment.
- B. Before starting any excavation work, the permittee shall be responsible to contact Underground Service Alert of Southern California and coordinate the proposed excavation with all interested utility companies, districts and agencies.

18.06.480 Maintenance of Protective Devices

The owner or agent in control of such property on which a grading activity has occurred pursuant to a permit granted under the provisions of this title, shall maintain in good condition and repair all structures, planting and other protective devices as per the approved plans or required by the permit. Any facilities dedicated for public use and accepted by a public agency are exempt.

18.06.500 Debris on Public and Private Streets

The throwing, leaving, maintaining, keeping, placing, dumping, depositing or spilling soil materials on public and private streets or any portion of the public rights-of-way shall be strictly prohibited. The permittee shall be responsible for the complete removal and cleanup of such materials from the street or any portion of the public rights-of-way. If the permittee fails to immediately remove said spillage or deposit from the street and/or public rights-of-way, and it is necessary for the City to cause such removal to be made, the cost of such removal work shall be the responsibility of the permittee. The City may use the grading deposit in accordance with Section 18.24.140 "Securities" of this title for this purpose without notice to the owner. An additional cash deposit may be required prior to resumption of grading activities to insure the cleanup of public streets.

Chapter 18.09 HAUL ROUTE PERMIT, APPLICATION & REQUIREMENTS

Sections:

18.09.020 Haul Route Permits Required 18.09.040 Haul Route Application 18.09.060 Haul Route Requirements

18.09.020 Haul Route Permits Required

No person shall conduct any hauling of soil materials on public rights-of-way from or to the site of a grading operation, without first having obtained a haul route permit, if required, as specified in and subject to the requirements of the Engineering and Construction Manual.

Because this permit may be triggered by various factors (location, quantity of soil, truck trips, traffic, etc.), the City will determine if a haul route permit is required on a case-by-case basis prior to allowing any hauling operation to commence.

18.09.040 Haul Route Application

To obtain a haul route permit, the applicant shall first file an application in writing on a form furnished by the City Engineer for that purpose. The applicant shall submit a complete application with the required documentation and fee, the amount of which is set by City Council resolution.

18.09.060 Haul Route Requirements

Where soil materials are moved on public rights-of-way from or to the site of a grading operation, a haul route plan shall be approved by the City Engineer in accordance with the Engineering and Construction Manual. Deviation from the designated haul route shall constitute a violation of the conditions of the permit issued under this title. Vehicular track-out shall be controlled, as directed by the City Engineer, to prevent sediment deposition outside of the project site boundaries. All haul route requirements shall be in accordance with this title and the Engineering and Construction Manual.

Chapter 18.12 ENCROACHMENT PERMIT, APPLICATION & REQUIREMENTS

Sections:

18.12.020	Encroachment Permits Required
18.12.040	Types of Work Covered by an Encroachment Permit
18.12.060	Encroachment Application
18.12.080	Plans and Specifications
18.12.100	Expiration and Renewal of Encroachment Application
	Submittals
18.12.120	Expiration and Renewal of Issued Encroachment Permits
18.12.140	Denial of Encroachment Permit
18.12.160	Transfer of Responsibility
18.12.180	Clearances
18.12.200	Required Reports
18.12.220	Disposal of Materials
18.12.240	Permit Issuance – Terms and Conditions
18.12.260	Time of Operations within Public Rights-of-Way
18.12.280	Responsibility of Permittee
18.12.300	Contractor Qualifications
18.12.320	Protection of Utilities within Public Rights-of-Way
18.12.340	Maintenance of Protective Devices within Public Rights-of-
	Way
18.12.360	Debris on Public Rights-of-Way

18.12.020 Encroachment Permits Required

For work within public rights-of-way, no person shall conduct any construction without first having obtained an encroachment permit in accordance with this title and without having obtained coverage under the State Water Resources Control Board's NPDES permit for construction activity, if applicable. Excavations shall meet all state and federal regulations including, but not limited to, any trench greater than five feet deep. Cal OSHA permits shall be obtained, as required.

18.12.040 Types of Work Covered by an Encroachment Permit

- A. The City Engineer may issue an encroachment permit for major and minor construction-related improvements within public rights-of-way upon satisfactory completion of an application in accordance with this title and the Engineering and Construction Manual. Note the following:
 - Major public rights-of-way improvements (as shown on typical construction plans) shall be covered under an encroachment permit and may include: street improvements, storm drain improvements, sewer and/or water improvements, dry utility improvements, traffic control plans, traffic signing & striping improvements and traffic signal improvements.
 - 2. No construction, grading or encroachment will be approved which, in the opinion of the City Engineer, physically prevents the use of existing legal access to any private parcel.
 - 3. The City Engineer may issue an encroachment permit for minor construction-related improvements within the public rights-of-way upon satisfactory completion of an application in accordance with this title and the Engineering and Construction Manual. Said minor construction-related improvements may include: driveway approaches, drains, street closures, oversize transport, tree trimming, utility work, etc.
- B. In addition to construction-related improvements within public rights-of-way, the City Engineer may issue an encroachment permit for miscellaneous activities performed within public rights-of-way upon satisfactory completion of an application in accordance with this title and the Engineering and Construction Manual. Said activities may include access to utility agency facilities, block parties, movie filming, street closures, special events, etc.

18.12.060 Encroachment Permit Application

To obtain an encroachment permit, the applicant shall first file an application in writing on a form furnished by the City Engineer for that purpose.

18.12.080 Plans and Specifications

A. Each application for an encroachment permit shall be accompanied by the required construction plans and specifications, soils engineering and geotechnical reports, hydrology/hydraulic reports, proof of coverage under the State General Permit for construction activities and all other information required by the City Engineer as

- noted in the Engineering and Construction Manual, and payment of the appropriate fees.
- B. Plans and specifications for construction projects and work requiring encroachment permits as defined in Section 18.12.040 "Types of Work Covered by an Encroachment Permit" of this title shall be prepared and signed by the engineer of record. This requirement may be extended to any project when, in the opinion of the City Engineer, drainage or geologic factors may warrant a need for civil engineering design and control.
- C. Construction plans and specifications shall be prepared in accordance with the Engineering and Construction Manual.

18.12.100 Expiration and Renewal of Encroachment Application Submittals

- A. Applications for which no permit is issued within 180 days following the date of application shall expire; and plans submitted for checking may thereafter be returned to the applicant or may be destroyed by the City Engineer without additional notice to the applicant.
- B. The City Engineer may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the reasonable control of the applicant have prevented action from being taken.
- C. In order to renew action for an application after expiration, the applicant shall resubmit the submittal package and pay the most current plan check fee.
- D. Plan check fees shall be deemed forfeited for all expired permits.

18.12.120 Expiration and Renewal of Issued Encroachment Permits

- A. An encroachment permit shall be valid for a period of 180 days from the date of issuance.
- B. The time limitation for all encroachment permits is also subject to the following provisions:
 - Permit Extensions. The City Engineer may extend the time limit on encroachment permits by one or more successive periods of up to 180 days upon written request by the applicant showing to the satisfaction of the City Engineer that circumstances beyond the control of the applicant have prevented, delayed or extended the time required to complete the work.
 - 2. <u>Weather-Related Delays</u>. The City Engineer may require that construction operations and project designs be modified if delays occur which incur weather-related problems not considered at the time the encroachment permit was originally issued.
- C. As a condition of the extension of any time period, the City Engineer may require the payment of additional permit, plan checking, inspection and/or soils review fees required to cover the administration of the extensions and/or increased costs to the City and to bring the project into conformance with any fee schedule in effect at the time of extension.

18.12.140 Denial of Encroachment Permit

- A. An encroachment permit shall not be issued in any case where the City Engineer determines that hazardous conditions exist and that the work, as proposed by the applicant, will:
 - 1. Expose public rights-of-way to landslide or geologic hazard;
 - 2. Adversely interfere with existing drainage courses/patterns and/or existing drainage improvements and utilities;
 - 3. Cause erosion and/or flooding, which could result in the depositing of mud, silt or debris on public rights-of-way; or
 - 4. Create any hazard to person or property.
- B. An encroachment permit shall not be issued if any of the following apply:
 - 1. If the submittal is incomplete (plans, licensing and insurance requirements, etc.);
 - 2. If the plan, as submitted, does not comply with the provisions of this title;
 - 3. If the required security is not posted; or
 - 4. If the application is incomplete or contains false information;
- C. The City Engineer shall deny the issuance of an encroachment permit if any of the following apply:
 - 1. If prohibited by a duly elected moratorium, court order, injunction or other legal order:
 - 2. If the applicant or owner has failed to comply with the provisions of this title; or
 - 3. If the work proposed is not consistent with the City's General Plan (or any element thereof), any specific plan, any permit or the approved subdivision map.

18.12.160 Transfer of Responsibility

If the civil engineer of record, the geotechnical engineer, the engineering geologist or the contractor of record is changed during the course of the work, the project shall be stopped until:

- A. Permittee submits a letter of notification verifying the change of the responsible professional; and
- B. The new responsible professional submits in writing that he has reviewed all prior reports and/or plans (specified by date and title) and work performed by the responsible professional party, and that he concurs with the findings, conclusions and recommendations and is satisfied with the work performed. He must state that he assumes all responsibility within his purview as of a specified date. All exceptions shall be justified to the satisfaction of the City Engineer.

Exception: Where clearly indicated that the firm, not the individual engineer and/or geologist, is the contracting party, the designated engineer or geologist may be reassigned and another engineer and/or geologist within the firm may assume responsibility.

18.12.180 Clearances

- A. The applicant shall obtain all required clearances from applicable regulatory agencies and City Departments prior to obtaining an encroachment permit, as specified in and subject to the requirements of the Engineering and Construction Manual. Said clearances shall not be obtained until the applicant meets all regulatory agencies' and City Departments' requirements.
- B. The applicant shall address all requirements associated with drainage ways within public rights-of-way. Said requirements shall comply with the Engineering and Construction Manual.

18.12.200 Required Reports

The requirements for this section shall conform to this title and the Engineering and Construction Manual.

- A. The City Engineer may require a geotechnical report to correlate surface and subsurface conditions with the proposed construction plans. The results of the investigation shall be presented in a report in conformance with the requirements of this title and the Engineering and Construction Manual.
- B. The City Engineer may require supplemental reports and data, as he deems necessary, upon his review of the project site, reports and other data submitted.
- C. The City Engineer may determine that geotechnical conditions at public rights-ofway are such that public safety is adequately protected and no mitigation is required.
- D. Dust control and prevention procedures shall be employed while construction activity occurs to minimize wind borne particles. At a minimum, all construction operations shall comply with South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust Emissions) and the Engineering and Construction Manual.

18.12.220 Disposal of Materials

The disposal of all waste and recycling materials removed as part of any construction project within public rights-of-way shall comply with the City's Solid Waste Franchise Agreement, as specified in and subject to the requirements within the provisions of the Temecula Municipal Code, Title 8, Chapter 8.20, "Waste Management," and the Engineering and Construction Manual.

18.12.240 Permit Issuance – Terms and Conditions

- A. Upon receipt and approval of the required application, fees, plans, reports and other requirements of this title, the City Engineer may issue an encroachment permit, subject to any terms and conditions deemed necessary to ensure conformance with the provisions of this title and the Engineering and Construction Manual.
- B. The City Engineer shall have the discretion to impose or modify conditions as necessary to prevent a possible nuisance or hazard, or to eliminate a nuisance or

- hazard, to persons or to public or private property in accordance with Section 18.27.060 "Hazardous Conditions" of this title.
- C. The issuance of an encroachment permit shall constitute an authorization to do only that work which is described or illustrated on the application for the permit, or on the plans and specifications attached to the permit and approved by the City Engineer. A separate permit shall be required for other work.

18.12.260 Time of Operations within Public Rights-of-Way

- A. Time of any construction operation pursuant to this title shall be consistent with City Ordinance No. 94-25. Construction operations within one-quarter (1/4) mile of an occupied residence shall not be conducted between the hours of 6:30 p.m. and 6:30 a.m., Monday through Friday; or between the hours of 6:30 p.m. and 7:00 a.m. on Saturdays. Further, no such activity shall be undertaken on Sunday or any nationally recognized holiday. The City Engineer may extend the hours permitted for construction operations if the City Engineer determines that such operations are not detrimental to the health, safety or welfare of the inhabitants of nearby structures. Permitted hours of operation may be shortened by the City Engineer's findings of a previously unforeseen effect on the health, safety or welfare of the surrounding community.
- B. Public Works projects of any federal, state or local entity or emergency work by public utilities are exempt from the provisions of this title.

18.12.280 Responsibility of Permittee

It shall be the responsibility of the permittee to be knowledgeable of the conditions and/or restrictions placed on the encroachment permit as outlined in the applicable sections of this title, the Engineering and Construction Manual, and as contained on the approved construction plans and technical reports. The permittee shall also be responsible for maintaining a copy of the permit and approved plans at the work site, and implementing all applicable requirements of the City's Standard Notes, as specified in and subject to the requirements of the Engineering and Construction Manual.

18.12.300 Contractor Qualifications

All persons performing work pursuant to this title shall have all valid licenses and insurance required by the State of California and by the City of Temecula.

18.12.320 Protection of Utilities within Public Rights-of-Way

- A. During construction operations, the permittee shall be responsible for the prevention of damage to public utilities or services and for confining construction activities to the area permitted on the approved plans. This responsibility applies within the limits of the construction activities and along any routes of travel of equipment.
- B. Before starting any excavation work, the permittee shall be responsible to contact Underground Service Alert of Southern California and coordinate the proposed excavation with all interested utility companies, districts and agencies.

18.12.340 Maintenance of Protective Devices within Public Rights-of-Way

Throughout the duration of the work, the contractor or agent in control of the work (for which he is encroaching into public rights-of-way pursuant to a permit granted under the provisions of this chapter), shall maintain in good condition and repair all structures, planting and other protective devices as per the approved plans or required by the permit and plans.

18.12.360 Debris on Public Rights-of-Way

The throwing, leaving, maintaining, keeping, placing, dumping, depositing or spilling soil materials on public rights-of-way shall be strictly prohibited. The permittee shall be responsible for the complete removal and cleanup of such materials from public rights-of-way. If the permittee fails to immediately remove said spillage or deposit from the public rights-of-way, and it is necessary for the City to cause such removal to be made, the cost of such removal work shall be the responsibility of the permittee. The City may use the improvement security in accordance with Section 18.24.140 "Securities" of this title for this purpose without notice to the owner. An additional cash deposit may be required prior to resumption of construction to insure the cleanup of public rights-of-way.

Chapter 18.15 DESIGN STANDARDS

Sections:

18.15.020	Cuts
18.15.040	Fills
18.15.060	Setbacks
18.15.080	Terracing and Drainage
18.15.100	Pad Grading
18.15.120	Asphalt Concrete Pavement
18.15.140	Disabled Access

18.15.020 Cuts

Unless otherwise recommended by the geotechnical engineer or the engineering geology reports (or both) and approved by the City Engineer, cuts slopes shall be no steeper than two horizontal to one vertical (2:1). All cuts and excavations shall conform to the provisions of this title and the Engineering and Construction Manual.

Exception: In the absence of an approved geotechnical engineering report, these provisions may be waived by the City Engineer for minor cuts not intended to support structures.

- A. <u>1½:1 Slope</u>. A cut surface may be at a slope of one and one-half horizontal to one vertical (1½:1) provided that all the following are met:
 - 1. It is not intended to support structures or surcharges.
 - 2. It is adequately protected against erosion.
 - It is no more than eight feet in height.

- 4. Ground water is not encountered.
- B. <u>1:1 Slope</u>. A cut surface in bedrock shall be permitted to be at a slope of one horizontal and one vertical (1:1).

18.15.040 Fills

Unless otherwise recommended by the geotechnical engineer or the engineering geology reports, or both, and approved by the City Engineer, fills shall be in accordance with the Engineering and Construction Manual.

Exception: In the absence of an approved geotechnical engineering report, these provisions may be waived by the City Engineer for minor fills not intended to support structures.

18.15.060 Setbacks

All setbacks and other restrictions specified in the Engineering and Construction Manual, pursuant to the recommendation of a civil or geotechnical engineer, and approved by the City Engineer, are to prevent damage to adjacent properties from erosion or to provide access for slope and drainage structure maintenance. Retaining walls may be used to reduce the required setbacks, when approved by the City Engineer.

18.15.080 Terracing and Drainage

Terracing and drainage facilities shall be constructed in accordance with the Engineering and Construction Manual, unless otherwise approved by the City Engineer. For subsurface drainage,

- A. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability and as recommended by the geotechnical engineer and/or engineering geologist.
- B. All canyons and buttress fills shall be provided with sub-drains, approved by the City Engineer.

18.15.100 Pad Grading

Storm water runoff from lots or adjacent properties shall not be carried over cut or fill slopes steeper than five horizontal to one vertical (5:1). Such runoff shall be in accordance with the Engineering and Construction Manual.

18.15.120 Asphalt Concrete Pavement

Asphalt concrete pavement for surfacing of parking lots, private streets, driveways or other similar uses shall be in accordance with the Engineering and Construction Manual, unless otherwise approved by the City Engineer.

18.15.140 Disabled Access

All site development and precise grading shall be designed to provide access to all entrances and exterior ground-floor exits and to normal paths of travel in accordance with California Disabled Access Regulations (California Code of Regulations, Title 24, Part 2).

Chapter 18.18 EROSION AND SEDIMENT CONTROL

Sections:

18.18.020	Construction Runoff Compliance
18.18.040	Erosion and Sediment Control Systems
18.18.060	Erosion and Sediment Control Plans Required
18.18.080	Erosion and Sediment Control Maintenance
18.18.100	Best Management Practices
18.18.120	Inactive Construction
18.18.140	Additional NPDES Requirements

18.18.020 Construction Runoff Compliance

- A. All individual construction and grading projects shall implement measures to ensure that pollutants: (a) are not discharged from the site, (b) shall be reduced to the Maximum Extent Practicable (MEP) and (c) will not cause or contribute to an exceedance of water quality objectives in the local natural watercourses. All construction and grading activities shall comply with applicable ordinances, permits and other federal, state and local requirements.
- B. The permittee shall adhere to the following requirements:
 - Develop and implement an erosion and sediment control plan to manage storm water and non-storm water discharges from the site at all times in accordance with the Engineering and Construction Manual. Projects disturbing, exposing or stockpiling one acre or more of soil are also required to have coverage under the State Construction General Permit and generate a Storm Water Pollution Prevention Plan (SWPPP);
 - Conduct phased grading operations and minimize grading activities during the rainy season;
 - 3. Coincide grading with dry weather periods to the extent feasible;
 - 4. Implement additional "Best Management Practices" (BMP's) for all rain events:
 - 5. Install a combination of erosion and sediment control measures to effectively prevent erosion and retain sediment on-site throughout the duration of all construction activities;
 - 6. Minimize exposure time of disturbed soil areas;
 - 7. Temporarily stabilize and re-seed disturbed soil areas as rapidly as possible;
 - 8. Permanently re-vegetate or landscape as early as feasible;

- 9. Stabilize all slopes;
- 10. Abide by all of the provisions set forth in the State Water Resource Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) General Permit for construction activity, if applicable. The City must be provided with a Waste Discharge Identification (WDID) number, the risk level determination number and the qualified SWPPP Developer (QSD) prior to issuance of a grading permit.
- 11. Implement the applicable requirements of the City's standard notes such as the Grading and Erosion & Sediment Control Notes, as specified in and subject to the requirements of the Engineering and Construction Manual.
- C. The above requirements are applicable to all construction sites regardless of whether the construction site is subject to the State Construction General Permit or other individual NPDES permit.

18.18.040 Erosion and Sediment Control Systems

- A. All erosion and sediment control measures shall be designed and implemented to manage storm water and non-storm water discharges from the site at all times in accordance with the Engineering and Construction Manual, this title, and all state and federal requirements.
- B. References used in identifying functional and practical erosion and sediment control measures and standards for the planning and design in the City of Temecula may include the California Stormwater Quality Association's BMP Handbook for Construction and other equivalent sources.
- C. The permittee shall:
 - Be responsible for the control of erosion and sediment discharges on and from all disturbed areas of grading until issuance of certificate of occupancy, at which time the BMP's of the Water Quality Management Plan (WQMP) shall be in place and operational.
 - 2. Implement the required BMP's year round. Additional site specific BMP's shall also be implemented, as necessary, to comply with this title, which may be more stringent than those required under the Construction General Permit.
 - 3. Implement additional controls (source and treatment) for construction sites that are adjacent or tributary to Clean Water Act Section 303(d) water bodies. Each permittee shall also implement additional controls for construction sites within, adjacent or discharging directly to environmentally sensitive areas.
 - 4. Conduct construction site inspection for compliance with this title and all applicable permits.
- D. No grading work shall be allowed on any portion of the site when the City Engineer determines that erosion, mudflow or sediment discharges may adversely affect downstream properties, drainage courses, storm drains, streets, easements, or public or private facilities or improvements unless an approved erosion and sediment control system has been implemented on the site. If the City determines that it is necessary for the City to cause erosion and sediment control measures to

- be installed or cleanup to be done, the permittee shall pay all of the City's direct and indirect costs including extra inspection, supervision and reasonable overhead charges in accordance with Section 18.24.120 "Cost Recovery Fees" of this title.
- E. All protective devices shown on the erosion and sediment control plan and in the SWPPP, if applicable, shall be in place within seven days prior to any forecast rain. If the permittee does not install or maintain erosion and sediment controls or if any cleanup is required, the City Engineer may order City crews to do the work or may issue contracts for such work and charge the cost of this work along with indirect costs, extra inspections, supervision and reasonable overhead charges to the cash deposits or other instruments implemented for this work without further notification to the owner. No additional work on the project except erosion and sediment control work shall be performed until the full amount drawn from the cash deposit, in accordance with Section 18.24.140 "Securities" of this title is restored by the permittee.
- F. Cut and fill slopes shall be protected to control against erosion and sediment discharges until sufficient permanent landscaping has been established. One hundred percent must be in place prior to issuance of certificate of occupancy.

18.18.060 Erosion and Sediment Control Plans Required

- A. No grading activity shall be allowed on any single grading site under permit unless the City Engineer has approved an erosion and sediment control plan.
- B. All grading plans, regardless of the date of submittal, shall include an erosion and sediment control plan designed to limit erosion of all disturbed portions of the property and to minimize the transport of soil onto downgrade perimeters, private and public storm water conveyance systems, environmentally sensitive areas and adjacent properties in accordance with the provisions of this title and the Engineering and Construction Manual.
- C. All erosion and sediment control BMP's outlined on the erosion and sediment control plan shall be shown on the SWPPP, if applicable, and implemented year round.
- D. A copy of the approved erosion and sediment control plan shall be maintained at the worksite at all times. A working set of approved plans shall be routinely and frequently modified and updated to ensure effective erosion and sediment control throughout the duration of construction.

18.18.080 Erosion and Sediment Control Maintenance

- A. Prior to and after each rainstorm, all on-site and off-site flow-lines, storm water conveyance systems, check dams, chevrons, silt fences and desilting basins shall be free of sediment, construction materials, waste, miscellaneous debris and deteriorated erosion and sediment controls at all times.
- B. Prior to and after each rainstorm, the erosion and sediment control system shall be evaluated and revised and repaired as necessary.

- C. The permittee shall be responsible:
 - 1. For taking necessary precautions to prevent public trespassing onto areas where impounded water, due to ESC devices, creates a hazardous condition. Signage indicating "Ponded Water Do Not Enter" shall be posted.
 - 2. For continual maintenance of the devices during all construction activities.
- D. In the event the City Engineer must cause emergency work to be done, he may revoke the grading permit. The permit shall not be renewed until an approved erosion and sediment control system has been installed and the owner has paid any applicable fees.
- E. If any grading or clearing subject to Section 18.06.020 "Grading Permits Required" of this title has commenced on private property without a valid grading permit, the property owner will be required to stop work, prepare an erosion and sediment control plan (which must be approved by the City), obtain a valid grading permit and implement the erosion and sediment control plan accordingly.

18.18.100 Best Management Practices (BMP)

- A. Best Management Practices are management practices and operating procedures/devices executed to prevent or reduce pollutant discharges into public or private storm water conveyance systems. BMP are effective methods to reduce the movement of pollutants such as sediment, nutrients, pesticides, etc. from a construction site to surface or ground water. The intent of BMP is to significantly reduce pollutant discharges and protect our bodies of water by maintaining effective water quality practices. As there may be many potential BMPs to utilize, careful consideration must be given to selecting the appropriate BMPs to use that are both practical and effective water quality protective measures.
- B. BMP's shall be implemented on a continual basis during construction activities. The following minimum criteria shall be met:
 - 1. An effective combination of erosion and sediment controls shall be implemented within seven working days of clearing or inactivity in construction.
 - 2. Soil stockpiles must be stabilized with a combination of erosion and sediment controls and have a daily maintenance frequency or as directed by the City Engineer.
 - 3. Waterway and watercourse protection shall include, but not be limited to, stabilization of the channel before, during and after state-approved in-channel work.
 - 4. Additional erosion and sediment control materials shall be stockpiled at various locations throughout the site for immediate implementation within seven days of a forecast rain. The developer/contractor shall make equipment and workers for emergency work available to protect the site.
- C. Erosion Control BMPs shall include temporary or permanent erosion control devices (or both) that comply with City and engineering standards as well as state and federal requirements.

- D. Temporary site vegetation shall be required, as determined by the City Engineer, on any disturbed soil areas of the site when construction activities cease indefinitely and/or when expiration of a grading permit occurs. Temporary site vegetation shall be performed in accordance with Section 18.06.160 and 18.12.120 "Expiration and Renewal of Issued Grading/Encroachment Permits" of this title. Temporary vegetation shall not negate any City requirement or condition of approval to install permanent landscaping.
- E. Sediment Control BMPs shall include temporary or permanent sediment control devices (or both) that comply with City and engineering standards as well as state and federal requirements.

18.18.120 Inactive Construction

- A. A site may be deemed "inactive" when the areas of construction activity are not active and/or have been active and are not scheduled to be re-disturbed for a prolonged period, as determined by the City Engineer. Prior to a site becoming inactive, the following is required:
 - 1. The engineer of record or permittee shall be responsible for submitting written notification to the City that construction activities will cease prior to completing the work associated with the approved grading plan;
 - The engineer of record shall validate or revise the erosion and sediment control plan and BMP implementation program based on the current site conditions; and
 - 3. The engineer of record shall prepare and submit a BMP implementation plan (for all disturbed areas) that demonstrates compliance throughout the expected period of inactivity and establishment of 100% vegetative coverage as the primary erosion control.

18.18.140 Additional NPDES Requirements

- A. All grading activities subject to the regulations of this title shall be designed and conducted to minimize runoff of all pollutants onto public and private properties and into state and federal waters as required by this section and the Temecula Municipal Code, Title 8, Chapter 8.28, Storm Water and Urban Runoff Management and Discharge Controls.
- B. The permittee shall:
 - 1. Obtain coverage under the State Water Resources Control Board's Construction General Permit to:
 - a. Submit a Waste Discharge Identification Number and a risk level determination to the City Engineer,
 - b. Submit appropriate fees to the SWRCB and
 - c. Complete all site-specific SWPPP, monitoring and reporting program plans, reports, certifications, and other information required by the permit and/or requested by the Regional Water Quality Control Board, United States Environmental Protection Agency or the City Engineer.

- 2. Update all plans as construction activities are modified from their original schedule and/or progress as originally planned.
- 3. Maintain all erosion and sediment control measures at the site throughout the duration of the project, as required by the permit.

All of the information noted above shall be maintained on-site during construction and shall be presented upon demand by the State Water Resources Control Board and/or City Engineer. NPDES requirements shall remain in effect until the Notice of Termination requirements are fulfilled.

Chapter 18.21

INSPECTIONS FOR CONSTRUCTION, GRADING & ENCROACHMENT WORK

Sections:

18.21.020	Inspections Required
18.21.040	Inspections after Rough Grading
18.21.060	Final Inspections
18.21.080	Requirements of Professional Engineers/Architect
18.21.100	Notification of Noncompliance
18.21.120	Special Inspections
18.21.140	Stopping and Correction of Work

18.21.020 Inspections Required

All construction, grading and encroachment related work for which a permit is issued, pursuant to the provisions of this title, shall be subject to inspections by the City Engineer. The inspections shall be in accordance with this title and the Engineering and Construction Manual.

18.21.040 Inspections after Rough Grading

Upon final completion of the rough grading work, the City Engineer may require written approvals, reports, plans and supplements, as specified in and subject to the requirements of the Engineering and Construction Manual, prior to his inspections.

18.21.060 Final Inspections

The permittee or his or her agent shall notify the City Engineer when the grading operation is ready for final inspection. Final approval shall not be granted until all work, including installation of all drainage facilities and their protective devices, and all erosion and sediment control measures, including landscaping and its irrigation system, have been completed in accordance with the approved grading plan, and the required reports have been submitted. Where landscape planting for erosion and sediment control has been installed, final clearance (release of security deposits) shall not be granted until the planting has been established. The establishment of such erosion and sediment control plantings shall be certified by a licensed Landscape Architect and approved by the City Engineer.

18.21.080 Requirements of Professional Engineers/Architect

- A. It shall be the responsibility of the civil engineer, who prepared the construction and/or grading plans, to incorporate the applicable recommendations from the geotechnical engineering and geology reports and to incorporate any City Engineer approved alternatives into the construction and/or grading plan.
 - 1. The civil engineer shall be responsible for establishing line and grade for the grading and drainage improvements and shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the City Engineer.
 - 2. The civil engineer shall be responsible for the preparation of plan revisions to be approved by the City Engineer, prior to implementing the change in the field.
 - 3. Prior to issuance of building permits for any given lot or lots, the civil engineer shall be responsible for submitting a pad certification letter stating line and grade as evidence that the grading activity has been completed within standard tolerances in accordance with the approved plans and that all embankments, cut slopes and pad sizes are as shown on the approved plans.
- B. The geotechnical engineer's area of responsibility shall include, but not be limited to, performing the preliminary geotechnical engineering investigation and report, determining the suitability of soils during grading, providing compaction inspection and testing and preparing the final geotechnical engineering report.
- C. The engineering geologist's area of responsibility shall include, but not limited to, professional inspection and approval of the stability of cut slopes with respect to geological matters and the need for sub-drains or other groundwater drainage devices. He shall report his findings to the geotechnical engineer for engineering analysis.
- D. The landscape architect shall incorporate applicable recommendations from the geotechnical engineering reports into the landscape and irrigation plans. The landscape architect shall also prepare plan revisions to be approved by the City Engineer, prior to implementing the change in the field. All ground cover shall provide 100% coverage within nine months of planting or additional landscaping shall be required in order to meet this standard.

18.21.100 Notification of Noncompliance

If, in the course of fulfilling their responsibilities under this title, the engineer of record, the geotechnical engineer, the engineering geologist or the testing agency finds that the work is not being performed in accordance with approved plans, specifications or this title, the discrepancies shall be reported immediately in writing to the grading contractor, the permittee and the City Engineer. Recommendations for corrective measures shall be submitted for approval to the City Engineer.

18.21.120 Special Inspections

The City Engineer may establish special inspection requirements in accordance with Chapter 17, Section 1704, "Special Inspections", of the California Building Code,

amended, for special cases involving grading or paving related operations. Special cases may apply to work where, in the opinion of the City Engineer, it is necessary to supplement the resources or expertise available for inspection.

18.21.140 Stopping and Correction of Work

- A. The provisions of Appendix Chapter 1, Administration, Section 114, "Stop Orders", of the California Building Code shall apply to all construction and grading work. Whenever the City Engineer determines that any work does not comply with the terms and conditions of the permit, or that that the work is being done improperly or in a hazardous manner, the City Engineer may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such persons shall stop conducting such work until authorized by the City Engineer to proceed with the work.
- B. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the City Engineer may require that such work be exposed for examination. Such work may be subject to additional inspection fees in accordance with Section 18.24.060 "Inspections" of this title.
- C. If the City Engineer finds the soil or other conditions not as stated in the approved plans and geotechnical reports or in additional information, which was required for issuance of the permit, he may issue a stop work order until a revised construction or grading plan has been approved by the City Engineer.
- D. If, during the course of any construction or grading operations, discovery is made of items of archaeological or paleontological interest, the permittee shall immediately cease operation in the area of discovery and notify the city inspector. Discoveries that may be encountered include, but are not limited to, dwelling sites, stone implements or other artifacts, animal bones, and fossils. The permittee shall obtain the services of a qualified archeologist or paleontologist to investigate the site and assess the significance of the find. Under no circumstances shall anyone remove or disturb any artifacts or remains. Work shall be resumed in the area of discovery at the direction of the City Engineer.
- E. Work may resume and the stop order shall be rescinded upon the City Engineer's determination that conditions have changed, corrections have been made or the causes or actions, which required a stop order, have been remedied or alleviated to his satisfaction.

Chapter 18.24 FEES AND SECURITIES

Sections:

18.24.020 Plan Checking

18.24.040 Permits

18.24.060 Inspections

18.24.080 Refunds

18.24.100 Review of Geotechnical Reports Fee 18.24.120 Cost Recovery Fees

18.24.140 Securities

18.24.160 Release of Security

18.24.020 Plan Checking

- A. Before accepting an application and a set of plans for review, the City Engineer shall collect all applicable plan checking fees. Separate permits and fees shall apply to retaining walls or major drainage structures. All applicants submitting plans, as required by this title, shall pay all plan check fees and/or deposits, as required by this title and by City Council resolution establishing applicable fees and deposits.
- B. An application submittal may expire in 180 days from the date of submittal if no permit has been issued in accordance with Sections 18.06.140 and 18.12.100 "Expiration and Renewal of Grading/Encroachment Application Submittals." If the application submittal has expired, the applicant shall be required to resubmit a new application and pay new plan check fees based on the City's current fee schedule.

18.24.040 Permits

- A. All applicants requesting a grading permit (for work related to mass, rough, precise, borrow site/stockpile, erosion and sediment control, administrative clearing, rock blasting, paving/watercourse alterations), a haul route permit and an encroachment permit, as required by this title, shall pay all fees and/or deposits, as required by this title and by City Council resolution establishing applicable fees and deposits. All permit fees shall be collected prior to issuance of permit.
- B. A permit may expire in 180 days from the date of issuance in accordance with Sections 18.06.160 and 18.12.120 "Expiration and Renewal of Issued Grading/Encroachment Permits," unless it is formally extended.
 - 1. If the permit has expired, the applicant shall be required to resubmit a new application and pay a permit issuance fee based on the City's current fee schedule.
 - 2. If the permit is officially extended, as a condition of said extension of any time period, the City Engineer may require the payment of additional permit, plan checking, inspection and/or soils review fees required to cover the administration of the extensions and/or increased costs to the City and to bring the project into conformance with any fee schedule in effect at the time of extension.
- C. The fee for a permit, authorizing additional work under a valid permit, shall be the difference between the fee paid for the original permit and the fee shown for the entire project, as indicated in the City's current fee schedule.
- D. Failure to pay fees and obtain a permit, before commencing work, shall be deemed a violation of this title, except where it can be proven to the satisfaction of the City Engineer that an emergency existed that made it impractical to first obtain the permit. A violation shall result in an assessment of double permit fees (per the City

- Engineer) that shall be *in addition* to the required permit fee for work done prior to permit issuance. Payment of such fees shall not relieve any person from fully complying with the requirements of this title.
- E. A separate permit shall be required for each separate (noncontiguous) site. One permit may cover both an excavation and a fill on the same site.

18.24.060 Inspections

- A. All applicants requesting inspections, as required by this title, shall pay all fees and/or deposits, as required by this title and by City Council resolution establishing applicable fees and deposits. All inspection fees shall be collected prior to issuance of permit.
- B. If there are additional inspection fees owed to the City for prolonged, unforeseen and unexpected inspection services, the City Engineer shall recover addition fees (for staff members performing the work) over and above the originally paid inspection fees at an hourly rate. Said hourly rates shall be established by the Finance Department and in accordance with applicable City resolution.
- C. When any premature inspection request causes the City Engineer to go onsite before the job is ready for such an inspection, due to the negligence of the permittee, the City Engineer shall recover said inspection costs based on an hourly rate fee for each such re-inspection, pursuant to the applicable City resolution. The fees shall be paid before any further inspections are made.

18.24.080 Refunds

- A. After submittal and commencement of processing by the City, no fee (including plan checking fees, permit fees, inspection fees, etc.) collected pursuant to this title, shall be refunded in whole or in part, except as provided as follows:
 - 1. Inspection fees may be refunded, less any City expenses incurred (including a reasonable overhead charge) at any time prior to the start of the work authorized by the permit, upon the applicant's written request, provided the permit application has expired or has been withdrawn.
- B. No refund shall be made pursuant to this section:
 - 1. If the applicant or permittee has any outstanding debts owed to the City, or if corrective work remains to be done on the construction site.
 - 2. If a request for refund is submitted to the City more than one year from the date of payment of the fee as to which a refund is claimed.

18.24.100 Review of Geotechnical Reports Fee

Before accepting a geotechnical (soils) report for review, the City Engineer shall collect a report review fee. A separate fee will be charged for each individual report submitted for review. The amount shall be established, as set forth by City Council resolution.

18.24.120 Cost Recovery Fees

If the City Engineer determines that it is necessary for the City to cause erosion and sediment control measures to be installed or site/street cleanup to be done as emergency work (relating to construction or grading work on private property), the City Engineer shall charge the property owner all direct and indirect costs that are necessary to complete the work to his satisfaction for the benefit of the public.

The cost recovery fee structure shall include all actual costs including, but not limited to, fees due to accelerating emergency work, administrative and legal costs, extra inspections, supervision and reasonable overhead charges. Any costs assessed against the property owner under this section may be appealed to City Council in accordance with Section 18.27.100 "Appeals" of this title.

18.24.140 Securities

- A. A permit shall not be issued unless the permittee first posts a security with the City comprised of a bond, cash deposit, letter of credit or a combination cash deposit and a corporate surety bond issued by a surety authorized to do business in the State of California, as specified in and subject to the requirements of the Engineering and Construction Manual.
- B. All security requirements shall be in compliance with this title, the Engineering and Construction Manual, the Temecula Municipal Code and all City and engineering standards.
- C. The developer shall warrant the work performed pursuant to any of the agreements noted above for a period of one year after final acceptance by City Council of the work and improvements against any defective work or labor done or defective materials furnished. If within the warranty period any work or improvement associated with the project fails to fulfill any of the requirements of the agreements, the developer shall immediately address the defects and repair and/or replace any defective or otherwise unsatisfactory part of the work.
- D. All substitutions of bonds shall be in compliance with this title, the Engineering and Construction Manual, the Temecula Municipal Code and all City and engineering standards. If any security is replaced by another approved security, the replacement shall be filed with City Clerk and, upon filing, shall be deemed to have been a part of and incorporated into its associated agreement. Upon filing of a replacement security with City Clerk, the former security may be released.
- E. In the event of failure to complete the work and failure to comply with all of the conditions and terms of the permit, the City Engineer may order work required by the permit to be completed or put in a safe condition to his satisfaction. The surety executing such bond, deposit, instrument of credit or letter of credit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended in causing any and all such required work to be done.

F. Whenever the City Engineer finds or determines that a default has occurred in the performance of any requirement of a condition of a permit issued under the provisions of this title, written notice thereof shall be given to the principal and to the surety named on the bond. Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the City Engineer to be reasonably necessary for the completion of such work. After receipt of such notice, the surety shall, within the time specified, cause or require the work to be performed, or failing therein, shall pay the estimated cost of doing the work as set forth in the notice. The surety shall pay the City for actual costs in accordance with Section 18.24.120 "Cost Recovery Fees" of this title.

18.24.160 Release of Security

- A. The security required by the previous section shall guarantee performance of the work authorized pursuant to the permit and shall be released upon acceptance of the work by the City Engineer, as specified in and subject to the requirements of the Engineering and Construction Manual.
 - Release of Security for Public Improvements. The security furnished for public improvements shall be eligible for release in accordance with this title, the Engineering and Construction Manual and all applicable City policies and procedures.
 - 2. Release of Security for Private Development. The security furnished for private development shall be eligible for release upon final completion and issuance of the certificate of occupancy, in accordance with this title, the Engineering and Construction Manual and all applicable City policies and procedures.

Chapter 18.27 ENFORCEMENT

Sections:

18.27.020	Powers and Duties of the City Engineer
18.27.040	Violations and Penalties
18.27.060	Hazardous Conditions
18.27.080	Public Nuisance
18.27.100	Appeals

18.27.020 Powers and Duties of the City Engineer

The provisions of Appendix Chapter 1, Administration, Section 104, Duties and Powers of Building Official, of the California Building Code shall apply to the City Engineer for all construction, grading and encroachment work to be done, as required by any conditions of any permit issued pursuant to this title.

18.27.040 Violations and Penalties

- A. It shall be unlawful for any person, firm or corporation to do construction and/or grading work in the City of Temecula, or cause the same to be done, contrary to or in violation of any of the provisions of this title or State or Federal Law.
- B. The issuance of a building permit, performance of building permit inspections or issuance of a certificate of occupancy may be withheld on property on which a violation of the provisions of this title exist, including work not performed in accordance with the approved plans, until such violation(s) has been corrected to the satisfaction of the City Engineer.
- C. Any person, firm or corporation violating any of the provisions of this title shall be deemed guilty of a misdemeanor. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violations of any provisions of this title are permitted, continued or committed by such person, firm or corporation and shall be punishable as provided for in Chapter 1.20 "General Penalty" of the Temecula Municipal Code.

18.27.060 Hazardous Conditions

- A. Hazardous conditions exist when the state of any natural ground, natural slopes, excavation, fill or drainage devices are situated on private property or public rights-of-way in such a manner that they are a hazard to life or limb, or a danger to public safety, or endangers the safety, usability, or stability of adjacent property, structures or public facilities.
- B. The City Engineer may examine, or cause to be examined, every condition reported as hazardous as set forth in subsection (A) of this section.
- C. Upon confirmation of a hazardous condition, the City Engineer shall provide written notification to the permittee, owner or agent in control of property with confirmed hazardous condition, requiring mitigation of said hazardous condition and stipulation of an acceptable time frame for compliance.
- D. The permittee, owner or agent in control of the property shall comply with any demand for corrective work or repairs, as required. In the event that corrective action is not completed within the period specified in writing, the City may exercise any available recourse for correction of said hazardous condition in accordance with Title 8, Chapter 8.12, of the Temecula Municipal Code.

18.27.080 Public Nuisance

For purposes of this title, the following shall constitute a public nuisance:

- A. Any construction, grading or other work conducted without a permit, where it is required by this title.
- B. Any construction, grading or other work done in violation of any of the conditions imposed thereon by a permit issued, pursuant to this title.
- C. Any construction, grading or other work, which fails to be done, as required by any conditions of a permit, issued pursuant to this title.

D. The existence of a hazardous condition, as defined in Section 18.27.060 of this title, upon the determination by the City Engineer that such condition exists.

18.27.100 Appeals

- A. The applicant, permittee, or any person(s) not satisfied with the decision by the City Engineer in regards to issuance of a permit or the performance of the permitted work, may file a written appeal to the City Clerk for a hearing before the City Council.
- B. Any such appeal must be made within three calendar days following the decision.
- C. The City Council will set a hearing to consider the appeal at the earliest possible regularly scheduled City Council meeting.
- D. The City Council, after receiving and considering all testimony and pertinent documents, may:
 - 1. Uphold the City Engineer's decision;
 - 2. Approve the appeal; or
 - 3. Modify the City Engineer's decision, consistent with the requirements of this title.

Section 5. The provisions of Title 18 shall apply to all grading, haul route and encroachment permits issued on or after the effective date of this Ordinance.

Section 6. The City Council authorizes and directs the Director of Public Works/City Engineer to revise the existing manual of standards setting forth the administrative procedures and technical requirements necessary to implement the provisions of this Ordinance. Such rules, procedures and requirements shall be entitled "Engineering and Construction Manual for Administrative and Technical Procedures for Construction, Grading and Encroachment."

Section 7. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 8. The proposed amendments to Title 18 of the Temecula Municipal Code are minor clarifications and constitute a re-organization of Title 18. In addition, the potential grading and land clearing activities regulated by this Ordinance merely implement components of the adopted 2005 General Plan that has already received the appropriate environmental review. Based on this fact, the City Council hereby finds that the adoption of this Ordinance is exempt from further review pursuant to Sections 15162(a) and 15061(b)(3) of the CEQA Guidelines. Section 15162 states that when an EIR has been certified for a project, no additional environmental review is required unless there is substantial evidence that the project has changed substantially. Moreover, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant effect on the environment, as the regulations herein

protect against detrimental impacts on the environment by minimizing the impacts of grading and encroachment work and instituting effective erosion and sediment control.

Section 9. The City Clerk shall certify the Ordinance and cause it to be published as required by law. This Ordinance shall take effect on the 30^{th} day after adoption pursuant to state law.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 22nd day of January, 2013.

Michael S. Naggar, Mayor

ATTEST:

Susan W. Jones, MMC City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

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I, Susan W. Jones, MMC, City Clerk of the City of Temecula, do hereby certify that the foregoing Ordinance No. 13-01 was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the 8th day of January, 2013, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the 22nd day of January, 2013, by the following vote:

AYES:

4 COUNCIL MEMBERS:

Comerchero, Edwards, Roberts, Naggar

NOES:

0 COUNCIL MEMBERS:

None

ABSENT:

1 COUNCIL MEMBERS:

Washington

ABSTAIN:

COUNCIL MEMBERS:

None

Susan W

Jones, MMC City Clerk